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Docket No. JJM-550

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#24 Appeal Brief w/ Extension (1) LMorgan 10/2/03

Applicants	:	Balbir Singh	
Serial No.	:	09/620,165	Art Unit: 3721
Filed	:	July 20, 2000	Examiner: S. Tawfik
For	:	APPARATUS AND METHOD FOR LONGITUDINAL FOLDING	

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on

September 15, 2003
(Date)

Theodore J. Shatynski
Name of applicant, assignee, or Registered Representative

Theodore J. Shatynski
(Signature)

September 15, 2003
(Date of Signature)

ATTENTION: BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANTS' BRIEF (37 C.F.R. 1.192)

This is an appeal from the final rejection mailed February 6, 2003, a Notice of Appeal having been received by the USPTO June 18, 2003. Appellants' Brief is being submitted on September 15, 2003 with a one-month extension being concurrently requested to extend the time of response from August 18, 2003 to September 18, 2003.

The fees required under Section 1.17(f), and any required petition for extension of time for filing this brief and fees therefor, are addressed with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

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This brief is transmitted in triplicate. (37 CFR 1.192(a))

This brief contains these items under the following headings, and in the order set forth below (37 CFR 1.192(c)):

TABLE OF CONTENTS

1. REAL PARTY INTEREST

The real party in interest of the subject patent application is Ethicon, Inc. having a principal place of business at U.S.Route #22, Somerville, New Jersey 08876.

2. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences pending.

3. STATUS OF CLAIMS

3.1 Claims 1-4 and 10-13 stand rejected under 35 U.S.C. §102(a) as anticipated by German Patent 199 05 520 (Stivani).

3.2 Claims 5-9 and 14-16 stand rejected under 35 U.S.C. §103(a) as obvious over German Patent 199 05 520 (Stivani).

4. STATUS OF AMENDMENTS

An amendment after Final Rejection has been and accepted.

5. SUMMARY OF INVENTION

This present invention is concerned with a folding device comprising:

a) a primary roller for receiving a material to be folded;

b) a primary disk in communication with said roller for creasing and folding said material as said material travels from said roller to said disk, wherein said primary roller and said primary disk are both free-spinning.

Among the advantages not present in the prior art is that the invention's design permits "continuous and essentially tensionless folding with little loss of compaction or creping of fragile materials "(spec. p. 5, lines 17-18). This advantage is accomplished by virtue of the manner in which the primary disk communicates with the roller as the "material travels from said roller to said disk" (claim 1). This feature of the invention may be more fully appreciated by referring to Fig. 1 and its brief description describing "the folding of a material through the creasing and draping of the material" (over the disk) (spec. p.3, lines 19-21) and elsewhere

described in the text, for example," the material to be folded 30 is first drawn about roller 10 and then is drawn about disk 20 thereby accomplishing a fold" (spec. p. 6, lines 18-19).

6. STATEMENT OF ISSUES

6.1 Whether claims 1-4 and 10-13 are unpatentable under 35 U.S.C. §102(a) as anticipated by German Patent 199 05 520 (Stivani).

6.2 Whether claims 5-9 and 14-16 are unpatentable under 35 U.S.C. §103(a) as obvious over German Patent 199 05 520 (Stivani).

7. GROUPING OF CLAIMS

For the purpose of the appeal, the following groups of claims do not stand or fall together.

7.1 Group I, includes claims 1-4 directed toward a folding device comprising:

a) a primary roller for receiving a material to be folded;

b) a primary disk in communication with said roller for creasing and folding said material as said material travels from said roller to said disk, wherein said primary roller and said primary disk are both free-spinning.

7.2 Group II, includes claims 5 and 7-9 directed toward said primary roller is a drive roller and said primary disk is a free-spinning disk.

7.3 Group III, includes claim 6 directed toward said primary roller further comprising a notch and said primary disk is in communication with said notch.

7.4 Group IV, includes claims 10-16 directed toward a feed roller and a pair of fold rollers wherein said feed roller aligns the material to be folded with said primary roller and said pair of fold rollers receives the material from said primary disk to press the material to complete the fold.

Groups I, II, II and IV are separately patentable.

Group I is separately patentable over Groups II, III and IV as Group I is directed towards a free spinning primary disk and a free-spinning primary roller. Groups II and III do not contain this limitation and Group IV contains further limitations over Group I. Therefore, Group I is separately patentable over Groups II, III, and IV.

Group II is separately patentable over Groups I, III, and IV as Group II is directed toward a primary drive roller and a free-spinning primary disk which therefore excludes free-spinning primary disks and rollers (Group I), a free-spinning primary roller and primary drive disk (Group III), and further embodiments comprising a feed roller and pair of fold rollers (Group IV). Therefore, Group II is separately patentable over Groups I, III, and IV.

Group III is separately patentable over Groups I, II, and IV as Group III is directed toward a primary drive disk and a free-spinning roller which therefore excludes free-spinning primary disks and rollers (Group I), a primary drive roller and a free-spinning primary disk, and further embodiments comprising a feed roller and a pair of fold rollers (Group IV). Therefore Group III is separately patentable over Groups I, II, and IV.

Group IV is separately patentable over Groups I, III, and III. Group IV contains the further limitations of comprising a feed roller and pair of fold rollers and are not required in Groups I, II, and III and therefore Group IV is separately patentable over Groups I, II, and III.

Therefore, the claims of Groups I, II, II and IV are separately patentable from among themselves.

8. ARGUMENTS

8.1 Claims 1-4 and 10-13 are not anticipated by German Patent 199 05 520 (Stivani).

Stivani relates to a folding device that includes rollers and disks. However, in order for Stivani to anticipate the present invention, Stivani must identically disclose the claimed invention.

Stivani fails to identically disclose the claimed limitation of "creasing and folding said material as said material travels from said roller to said disk." This limitation occurs between the "primary disk (which is) in communication with said (primary) roller." Instead, Stivani only at best discloses a disk (10) and roller (11) in communication with one another at a single point but not as in the claimed arrangement which requires the primary roller to first receive the material to be folded (claim 1, part a) and then requires communication with the disk in a manner that creases and folds the material "as said material travels from said roller to said disk." Thus, the single point of contact between the roller and disk of Stivani is not capable to accomplish the folding as described ("the material to be folded 30 is first drawn about roller 10 and then is drawn about disk 20 thereby accomplishing a fold" (spec. p. 6, lines 18-19) and see also, Fig. 1 and brief description of "folding of a material through the creasing and draping of the material" (over the disk) (spec. p. 3, lines 19-20)), and as claimed by "creasing and folding said material as said material travels from said roller, to said disk" (claim 1), in the present invention.

Since Stivani does not identically disclose the claimed invention, the Examiner's §102(a) rejection is respectfully respected to be reversed.

8.2 Claims 5-9 and 14-16 are not obvious over German Patent 199 05 520 (Stivani).

Appellants submit that the claimed invention is not obvious over Stivani because Stivani contains no teaching or suggestion at arriving at the invention as claimed by Appellants.

As mentioned in the Summary of the Invention, one advantage of the claimed invention is its ability to accomplish nearly tensionless folding (spec. p. 5, lines 177-18). In contrast Stivani appears to accomplish folding in a taut manner. Furthermore, if one attempted to accomplish folding of a material according to Stivini, folding would run into difficulty when using fragile materials. Also, a system requiring tension to fold fragile materials would most likely result in the fragile material being torn with Stivani's device, while folding of fragile materials would be accomplished in the present invention by the material simply draping over the disk as the "material travels from said roller to said disk" (see also Fig. 1). Since Stivani does not disclose, suggest, or would be capable of operation as described and claimed by Appellants, the Examiner's §103 rejection is respectfully requested to be withdrawn.

8.3 CONCLUSION

For the foregoing reasons, the reversal of the rejections relating to claims 1-16 are respectfully requested.

9. APPENDIX OF CLAIMS INVOLVED IN THE APPEAL

(See attached)

Respectfully submitted,

Theodore J. Shatynski

Theodore J. Shatynski
Reg. No. 36,676

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933
(732)524-2498
Dated: September 15, 2003

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APPENDIX OF CLAIMS INVOLVED IN THE APPEAL

1. A folding device comprising:

a) a primary roller for receiving a material to be folded;

b) a primary disk in communication with said roller for creasing and folding said material as said material travels from said roller to said disk, wherein said primary roller and said primary disk are both free-spinning.

2) The device of claim 1, wherein said primary roller further comprises a notch and said primary disk is in communication with said notch.

3) The device of claim 2, wherein said primary disk is biased to be in contact with said notch.

4) The device of claim 3, wherein said disk is normal to said primary roller.

5) The device of claim 1, wherein said primary roller is a drive roller and said primary disk is a free-spinning disk.

6) The device of claim 1, wherein said primary disk is a drive disk, and said roller is a free-spinning roller.

7) The device of claim 5, wherein said primary roller further comprises a notch and said primary disk is in communication with said notch.

8) The device of claim 7, wherein said disk is biased to be in contact with said notch.

9) The device of claim 8, wherein said disk is normal to said roller.

10) The device of claim 1, further comprising a feed roller and a pair of fold rollers wherein said feed roller aligns the material to be folded with said primary roller and said pair

of fold rollers receives the material from said primary disk to press the material to complete the fold.

11) The device of claim 10, wherein said primary roller further comprises a notch and wherein said primary disk is in communication with said notch.

12) The device of claim 11, wherein said disk is biased to be in contact with said notch.

13) The device of claim 12, wherein said disk is normal to said primary roller.

14) The device of claim 13, wherein said fold rollers are drive rollers and said disk is a free-spinning disk.

15) The device of claim 14, wherein said primary roller is a drive roller.

16) The device of claim 15, wherein said feed roller is a drive roller.